

CASE NO. 08-06-8
Zoning Commission of the District of Columbia
Comprehensive Zoning Regulations Rewrite: Low/Moderate Density Residential
Testimony of Marilyn J. Simon, Friendship Neighborhood Association
Thursday, April 9, 2009

My name is Marilyn Simon, and I am speaking on behalf of Friendship Neighborhood Association. Zoning regulations have a critical role as a contract between citizens of the District and their government, a contract which protects homeowners and businesses that have invested in the District and its neighborhoods. Homeowners have relied on protections provided by the zoning regulations when they chose to live and invest in the District's neighborhoods. These regulations have provided homeowners in our low and moderate density neighborhoods with predictability about the development that would be allowed in their neighborhood and in the zones near their neighborhood.

Many of OP's recommendations for the low- and moderate-density residential zones threaten that critical predictability. As a basis for some recommendations, OP has considered examples where special exceptions or variances are required and devised a broad definition of matter of right development where those particular projects would not require zoning review. In doing so, OP has swept many other potential projects into the matter of right category, projects which might have a negative impact, and would not have been approved by the BZA or Zoning Commission.

Recommendations in this section would change the uses allowed as a matter of right in low and moderate density residential zones, allowing as a matter of right some non-residential uses which currently are not allowed or would require review as a special exception or variance.

There are also recommendations which allow a minimum footprint as a matter of right regardless of the lot size or lot occupancy, allow matter of right construction on existing substandard lots, increasing lot occupancy beyond current limits and for rowhouses allow as a matter of right a minimum building depth, even on shallow lots, increasing lot occupancy and in some instances reducing or eliminating the rear yard requirement. These recommendations can dramatically increase the size of buildings allowed on small sites and eliminate the review of these buildings to determine whether they will have a negative impact on neighboring homes. The recommendations on side yards seem to be based on a unique example, but homeowners would not be certain about whether a new building next door will include an adequate side yard, affecting their contract for adequate light and air.

These specious proposals, which remove predictability about neighboring uses as well as the scale of new buildings and placement of new buildings in low and moderate density residential zones, are compounded by some of OP's recommendations in other sections of the zoning rewrite that will change the uses allowed in low and moderate density residential zones and the type of development allowed in zones near low and moderate density residential neighborhoods. For example, in the campus and institutional section (08-06-7), OP recommended that institutional uses such as child care centers or

CBRFs, below some, as yet to be determined size for each zone, be allowed as a matter of right in residential zones. The recommendation in the Mapping and Use Principles section (08-06-5) to consolidate use lists removes much necessary granularity required to distinguish uses which are appropriate for different areas, and consolidation of use lists and substitution of an undefined, unworkable and unenforceable system of use controls makes these recommendations to extend additional non-residential uses to residential zones even more problematic.

In a recent working group session, OP announced that TOD zones would be defined to be all non-residential or higher density residential areas within a half mile of every Metro station. OP left open the option of adding low and moderate density residential land to the TOD zones in the future. While they stated that some of the parameters of the TOD zones could be customized for different Metro stations, there will be no minimum parking requirement for any uses, residential, commercial or institutional in any of the TOD zones. This recommendation ignores the Comprehensive Plan and valid concerns about spillover parking in low- and moderate-density residential neighborhoods near Metro stations and will have a destabilizing effect on many of the District's neighborhoods.

A common theme for many of the recommendations in the low and moderate density residential section is to increase the amount of development that will be allowed on any lot and to change the regulations to allow matter of right development on small lots that currently would not be buildable or would require zoning flexibility. This is done without considering the impact that these changes will have light and air and the character and stability of these residential districts.